

FROM : A. Brent Truitt

PHONE NO. : 845 585 5122

FEB 05 2008 01:01PM '08  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORKUNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PORTSIDE GROWTH AND OPPORTUNITY FUND,

Plaintiff,

-against

1:07-cv-5582-GBD

EARTH BIOFUELS, INC.,

Defendant.

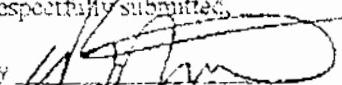
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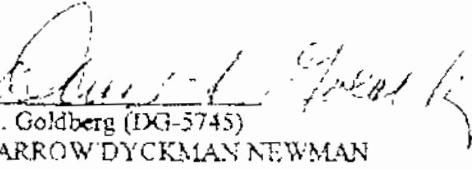
STIPULATION AND ORDER OF DISMISSAL WITHOUT PREJUDICE

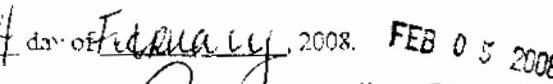
Plaintiff Portside Growth and Opportunity Fund ("Portside"), and Defendant Earth Biofuels, Inc. ("Earth Biofuels") have agreed to dismiss all claims pending in this litigation without prejudice with each party (except as they may have otherwise agreed in writing) to bear its own costs and attorneys' fees. Accordingly, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), the parties respectfully request that this Court enter an order dismissing this case in its entirety without prejudice.

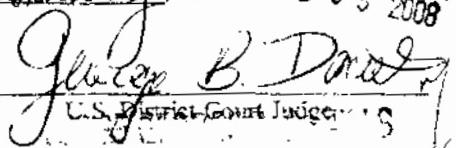
Date: New York, New York  
January 17, 2008

Respectfully submitted,

By   
 A. Brent Truitt (AT-3/99)  
 HENNIGAN, BENNETT & DORMAN LLP  
 245 Park Avenue, Suite 3962  
 New York, New York 10167  
 (212) 672-1966  
 Attorneys for Plaintiff Portside Growth and Opportunity Fund

By   
 Daniel I. Goldberg (DG-5745)  
 SALON MARROW DYCKMAN NEWMAN & BROUDY, LLP  
 292 Madison Avenue  
 New York, New York 10017  
 (212) 661-7100  
 Counsel for Defendant Earth Biofuels, Inc.

IT IS SO ORDERED this 4 day of February, 2008. 

  
 U.S. District Court Judge J.G.